IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Crl.MC.No. 3250 of 2007()

CC.1401/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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PETITIONERS: ACCUSED 1 TO 4:

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1. **P.K. VINOD, S/O. KUTTAN,**
   PAPAKULAM VEEDU, KAKKANAD, ERNAKULAM.

2. **KUNJUMON K.T., S/O. THANKAPPAN,**
   KANNANKARI, KAKKANAD P.O., ERNAKULAM.

3. **ABILASH M.K., S/O. KUTTAPPAN,**
   MANDAPATHIL, KAKKANAD, ERNAKULAM.

4. **RAJESH, S/O. KRISHNANKUTTY,**
   KANNANKARI, KAKKANAD P.O., ERNAKULAM.

BY ADV. SRI.SALIM V.S.
SRI.O.C.LAIJU

RESPONDENTS: COMPLAINANT:

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1. **STATE OF KERALA,**
   REPRESENTED BY ITS PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. **THE SUB INSPECTOR OF POLICE,**
   THRIKKAKARA POLICE STATION, THRIKKAKARA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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Crl.M.C. No. 3250 Of 2007

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Dated this the 23rd day of October, 2007

ORDER

The petitioners face indictment in a prosecution for offences punishable under Sections 324 and 323 read with 34 IPC. The petitioners had entered appearance. They were enlarged on bail. They were appearing before the Court either personally or through their counsel on different dates of posting. Unfortunately, when the case was posted to 4.10.07, the learned counsel for the petitioners wrongly noted the date as 4.11.07. On 4.10.07, when the case was called, the petitioners and their counsel were absent. Warrants of arrest have been issued by the learned Magistrate. The petitioners find such warrants of arrest chasing them. The petitioners have now rushed to this Court with a prayer that their applications for regular bail may be directed to be considered by the learned Magistrate on merits in accordance with law and expeditiously.

2. On 4.10.07, if the extraction of the order sheet entries by the petitioner were correct, the case was not posted to perform any act in the procedure for which personal presence of the petitioners was necessary. It passes my comprehension as to why the learned Magistrate had issued warrants of arrest.

3. Be that as it may, the learned counsel for the petitioners only prays that the petitioners' applications for regular bail may be

directed to be considered,on merits, in accordance with law and expeditiously. I am satisfied that the request can be allowed.

4. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

5. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

6. In the peculiar facts and circumstances of the case, I am satisfied that a direction can be issued that the warrants of arrest issued against the petitioners shall not be executed till the next date of posting on 12.12.07. It is so directed also.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE